



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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**MEMORANDUM FOR DIRECTOR, FIELD OPERATIONS, EAST
DIRECTOR, FIELD OPERATIONS, WEST
DIRECTOR, TECHNICAL GUIDANCE
DIRECTOR, APPEALS PROCESSING SERVICES**

FROM: Diane S. Ryan //signed// *Diane S. Ryan*
Director, Technical Services

SUBJECT: INTERIM GUIDANCE
Compliance Assurance Process - Fast Track Settlement

The IRS formally announced the Compliance Assurance Process (CAP) in Announcement 2005-87, 2005-50 I.R.B. 1144. CAP is a new LMSB pilot program for large business taxpayers and is designed to resolve issues prior to the filing of a tax return. The purpose of this memorandum and attachment is to provide interim guidance on Compliance Assurance Process - Fast Track Settlement until appropriate sections of the Internal Revenue Manual are revised. This interim guidance should be distributed to all Appeals Team Case Leaders, Appeals Officers and managers.

IRM 4.51.4 will be revised to add the attached Technical Procedures and Guidelines to the current version. These procedures and guidelines will be incorporated into IRM 4.51.4 by January 30, 2007.

If you have any questions concerning this guidance, please call Bob Doran at 336-378-2014 or J. W. Wyatt at 314-612-4639.

Attachment

cc: Sherry Zuckerman
IRS.gov

ATTACHMENT

COMPLIANCE ASSURANCE PROCESS - FAST TRACK SETTLEMENT APPEALS TECHNICAL PROCEDURES & GUIDELINES

SECTION 1: OVERVIEW

01. Following are the Appeals Technical Procedures and Guidelines for the Compliance Assurance Process - Fast Track Settlement. The Compliance Assurance Process (CAP) is a new LMSB pilot program for large business taxpayers; it is designed to resolve issues prior to the filing of a tax return. The IRS formally announced CAP in Announcement 2005-87, 2005-50 I.R.B. 1144; click on the link for the Internal Revenue Bulletin 2005-50, which contains the Announcement:
<http://www.irs.gov/pub/irs-irbs/irb05-50.pdf>.
02. Fast Track Settlement under Rev. Proc. 2003-40 is available when the parties are unable to resolve a dispute; click on the link for the Fast Track Settlement procedures on irs.gov: [Fast Track Settlement](#). These Technical Procedures & Guidelines are to be used by Appeals personnel.
03. In the CAP process, the IRS expects to make significant improvements to issue resolution by working with the taxpayer to determine the tax treatment of transactions prior to filing.
 - a) Under the pilot, specific corporations will be assigned an Account Coordinator (AC), who will work with the taxpayer and coordinate additional IRS resources as needed, to review economic events and material tax transactions in a contemporaneous manner to resolve issues prior to filing.
 - b) The Account Coordinator engages the taxpayer during the tax year to identify and resolve material issues, rather than several years after a return is filed.
 - c) When agreement on the proper tax treatment can be reached, the Taxpayer will receive an acceptance letter from the IRS, minimizing the need for post-filing review of specific transactions or issues.

SECTION 2: COMPLIANCE ASSURANCE

CAP is comprised of several key components:

- a) Collaborative relationship between taxpayer and the AC, the IRS point of contact to identify and resolve issues during the year.
- b) Comprehensive and contemporaneous disclosure environment to identify issues.

- c) Issue-driven approach focusing on significant economic events and material tax transactions. Timely identification, evaluation and resolution of issues prior to filing the tax return.
- d) Determination of acceptance prior to filing.
- e) Joint post-filing review of return.

SECTION 3: ISSUE RESOLUTION

- 01. Issues that arise in the CAP process can be resolved by the CAP Team and the taxpayer using Issue Resolution Agreements (IRA). Click on the link below for an IRA: http://lmsb.irs.gov/CAP/downloads/CAP_IRA.doc
- 02. Fast Track Settlement will be available as an ADR program during CAP on an issue by issue basis. See Revenue Procedure 2003-40, 2003-1 C.B. 1044, for the Fast Track Settlement procedures; click on the link:
<http://www.irs.gov/pub/irs-drop/rp-03-40.pdf>.
 - a) Fast Track Settlement is designed to help LMSB taxpayers expeditiously resolve disputes during an examination while their case is still in LMSB jurisdiction. Fast Track Settlement brings Appeals resources to the audit site to resolve the disputed tax treatment of identified transactions.
 - b) Rev. Proc. 2003-40 provides that the FTS Appeals Official, serving as a neutral participant in the FTS process, will assist LMSB and the taxpayer to understand the nature of the dispute and to reach a mutually satisfactory resolution consistent with applicable law.
 - c) In the CAP process, a specially trained Appeals Official facilitates the Fast Track settlement discussions between the taxpayer and the CAP Team, to reach and execute a settlement with which both agree.
 - d) The prohibition against *ex parte* communications between Appeals Officers and other Service employees provided by section 1001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 does not apply to the communications arising in Fast Track Settlement because Appeals personnel, in facilitating an agreement between the taxpayer and LMSB, are not acting in their traditional Appeals settlement role.
 - e) The Team Manager starts the process by submitting the Application for Fast Track Settlement to the LMSB & Appeals Fast Track Settlement Program Managers.
 - f) In addition to the LS Feature Code, Appeals will use the CP Feature Code on the Appeals Centralized Database System for CAP cases requesting Fast Track Settlement. They can be selected from the Feature Code drop down menu on the Appeals Centralized Database System (ACDS). Appeals Officers

or Appeals Team Case Leaders should add the Feature Code to the case on ACDS, either by adding it themselves through the Update function in CARATS

or requesting Appeals Processing Services to add the Feature Code. The Feature Code field in ACDS is critical for Appeals data accuracy on all cases.

- g) If the parties reach agreement, a Form 906 closing agreement will be executed to finalize the resolution (see Section 4 below).

03. If the taxpayer utilizes the Fast Track Settlement Program, the AC should follow the procedures outlined in Revenue Procedure 2003-40.

- a) The AC will prepare the application package and forward it to the Team Manager for approval. The Team Manager will review, approve, sign the application and obtain the taxpayer's signature and forward it to the LMSB & Appeals Fast Track Settlement Program Managers. Click on the link for the Fast Track Settlement application form: http://www.irs.gov/pub/irs-utl/lmsb_agrt_form_3-26.pdf.
- b) The AC will forward the issue positions for both parties to Appeals for their consideration, prior to the opening conference and arrange any meetings. The Team Manager and appropriate team personnel, including specialists, their managers and Technical Advisors from LMSB will participate in the Fast Track Settlement process with taxpayers, which includes attending meetings, discussions, and providing necessary information to achieve a comprehensive understanding of the issue.
- c) If necessary, the Territory Manager and Director, Field Operations-LMSB, will participate in the Fast Track Settlement process.
- d) If an issue is resolved during Fast Track Settlement, the agreed resolution will be incorporated into the applicable closing agreement. See Section 4, below.
- e) Fully developed but unagreed issues not resolved using Fast Track Settlement during pre-filing will be incorporated into a 30-day letter once the return is filed and the case will be forwarded through the traditional Appeals process.

04. Binding arbitration is not an option that will be available in the CAP process.

05. If Fast Track Settlement does not occur prior to return filing, taxpayers will have the option of electing to use Fast Track Settlement during the post-filing examination process. Once the taxpayer elects Fast Track Settlement in CAP, it can not be used for the same issue during the post-filing examination process. An exception will be a change in facts and circumstances that the parties subsequently agree merits the use of Fast Track Settlement.

SECTION 4: CLOSING AGREEMENTS UPON COMPLETION

01. Upon completion of the Fast Track Settlement in the CAP process, the FTS Appeals Official will prepare a Fast Track Settlement Session Report, to be signed by the parties. Click on the link below for the Session Report: [Fast Track Schedule of Adjustmentshttp://appeals.web.irs.gov/adr/documents/Fast%20Track%20Session%20Report%20clean%206-10-Ex%203.xls](http://appeals.web.irs.gov/adr/documents/Fast%20Track%20Session%20Report%20clean%206-10-Ex%203.xls)
02. If an issue is settled during Fast Track Settlement, the agreed settlement will be documented in the Fast Track Session Report and the applicable Form 906, Closing Agreement on Final Determination Covering Specific Matters, will be prepared by Appeals. Click on the link below for the Session Report: <http://appeals.web.irs.gov/adr/documents/Fast%20Track%20Session%20Report%20clean%206-10-Ex%203.xls>. The FTS Appeals Official will also prepare a brief Appeals Case Memorandum.
03. If an issue is resolved using LMSB resolution authority during Fast Track Settlement, the original IRA should be attached to the final signed Fast Track Settlement Session Report. The FTS Appeals Official does not prepare an Appeals Case Memorandum. If the parties desire, the agreed resolution may be incorporated into the applicable Form 906 that will be prepared by the AC and signed by LMSB upon completion of CAP. Appeals will assist the parties in drafting the Form 906 Closing Agreement. Click on the link below for an IRA: http://lmsb.irs.gov/CAP/downloads/CAP_IRA.doc
04. Where a Joint Committee report may be required or is required for the CAP case, Appeals will delay execution of the closing agreement until LMSB completes the Joint Committee procedures. LMSB is responsible for preparing the Joint Committee report. Where Appeals settlement authority has been utilized on a Joint Committee case, the Appeals Official involved in the settlement will be available to respond to inquiries from the Joint Committee regarding the settlement.
05. Appeals will follow the established closing procedures for Fast Track Settlement. Click on the link below to access the Fast Track Settlement Technical Procedures and Guidelines, Section 6, Closing Procedures: <http://appeals.web.irs.gov/adr/documents/FAST%20TRACK%20Technical%205-26-04.doc>
06. Appeals will send a closing letter and copies of the Fast Track Settlement closing documents to the taxpayer, AC and LMSB Team Manager.

FOR FURTHER INFORMATION: Click on the link below to access the CAP Web site on the IRS Intranet: <http://lmsb.irs.gov/CAP/index.asp> or contact J.W. Wyatt at 314-612-4639 or Jim Fike at 202-283-8353.